

REMARKS

Claims 1-10 are currently pending in the patent application, and new claims 11-14 have been added. Applicant submits that the newly added claims are fully supported (*see, e.g.*, the original claims along with paragraphs 0010-0012), and that no new matter has been added. For the reasons and arguments set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

In the instant Office Action dated January 4, 2008, the following rejections are noted: claims 1-10 stand rejected under 35 U.S.C. § 112(2); and claims 1-10 stand rejected under 35 U.S.C. § 103(a) over Yun (U.S. Patent No. 6,433,386) in view of Kelly (U.S. Patent No. 5,801,573).

Applicant respectfully traverses the § 112(2) rejection of claims 1-10 as being indefinite. In accordance with M.P.E.P. 2171, the requirement to particularly point out and distinctly claim the subject matter of the invention “is an objective one because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite - i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.” *See also Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1366 (Fed. Cir. 2004) (“The requirement to ‘distinctly’ claim means that the claim must have a meaning discernible to one of ordinary skill in the art when construed according to correct principles...Only when a claim remains insolubly ambiguous without a discernible meaning after all reasonable attempts at construction must a court declare it indefinite.”) Applicant submits that all of the claimed features, including their claimed relationships, would be understandable to those of skill in the art, particularly in light of Applicant’s Figs. 1-5 and the accompanying discussions.

As basis for the § 112(2) rejection, the Office Action merely states, “the structure of the claimed invention is not clearly defined insofar as determining where the claimed components are located with respect to each other, and how the different types of cells are structurally distinguishable from each other.” Applicant submits that such a general assertion lacks the specificity needed for Applicant to make an adequate response. Moreover, it appears that the issue raised by the Office Action is not one of definiteness,

but rather one of claim breadth. *See* M.P.E.P. § 2173.04, stating that issues of definiteness should not be confused with issues of preferred language or claim scope.

To the extent that the indefiniteness rejection is predicated on a lack of recited relationships among the various claimed elements, Applicant submits that each feature recited in the claims is properly connected and related, whether structurally or functionally, and that such relationships would be clear to one of skill in the art, particularly in light of the specification. To the extent that the indefiniteness rejection is predicated on lack of structural recitations distinguishing the different types of cells, Applicant submits that the claims fully meet the standards of precision and clarity required for one of skill in the art to understand the invention and the scope of what is being claimed, particularly in light of Figs. 1-3, and accompanying discussions, that indicate and distinguish different types of cells.

In view of the above, the § 112(2) rejection of claims 1-10 is improper and Applicant requests that it be withdrawn.

Applicant respectfully traverses the § 103(a) rejection of claims 1-10 because the proposed combination of Yun and Kelly does not teach or suggest all the features recited in Applicant's claims. Moreover, Applicant submits that the § 103(a) rejection is improper due to insufficient detail regarding correspondence between the references and the elements recited in Applicant's claims and regarding the manner in which the references are proposed to be combined, and therefore the rejection is inconsistent with 35 U.S.C. § 132.

The cited portions of the Yun reference do not correspond to various aspects recited in the claims. For example, Applicant finds nothing in the Yun directed to a plurality of sense cell groups where each group of sense cells is connected to a respective sense terminal, and where each group has different ratios of edge cells to inner cells. The Yun reference discloses providing a number of different possible sense cell configurations so that a single desired sense current ratio can be selected after manufacturing the FET. After selection, only the selected sense cell configuration is connected to the sense source. Yun discloses that sense cells left unused by the selected configuration may be used as main cells, not as additional sense cells. *See, e.g.,* the discussion on Col. 2:36 through Col. 3:19. For example, the cited portions of the Yun

reference indicate that the desired sense pad configuration from among sense pads SP₃₁, SP₃₂ and SP₃₃ is selected by cutting the appropriate ones of the fuses S₃₁-S₃₅. As a result, only the selected sense pad configuration is connected to the sense source. *See, e.g.,* Figure 6 and Col. 6:15-52. Applicant therefore submits that the Yun reference does not teach or suggest that each group of sense cells is connected to a respective sense terminal as recited in the claimed invention.

The Kelly reference appears to add nothing to cure the deficiencies of Yun noted above. In reviewing the Kelly reference, Applicant has been unable to find any disclosure of multiple groups of sense cells, much less multiple groups of sense cells each being connected to a respective sense terminal. For example, Kelly's Fig. 6 and the description on Col. 12:13-35 indicate a single group of sense cells (section SE) connected to a single sense electrode (S1), and a main section (M). Applicant therefore submits that any combination of Yun with Kelly cannot be read on all of the features recited in Applicant's claims. For at least this reason, the § 103(a) rejection of claims 1-10 is improper and Applicant requests that it be withdrawn.

Applicant further traverses the Section 103(a) rejection of claims 1-10 because the Office Action has failed to state the rejection in a manner consistent with 35 U.S.C. § 132. The Office Action fails to provide sufficient detail regarding the alleged correspondence between the claimed invention and the cited references that would enable Applicant to adequately respond to the rejection. According to M.P.E.P. § 706.02(j), “It is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply.”

In this instance, the Office Action provides no detail regarding alleged correspondence between the cited references and Applicant's claims, and provides no detail regarding how the cited references are to be combined to result in Applicant's invention. The entire explanation of the rejection consists of (1) incorporating the discussion of Yun from the previous Office Action (which merely cited Yun's sense cell arrays and stated that, “the Yun structure, which also makes use of MOS devices, would, of necessity, include the well known support layers, terminals and drive circuitry, as claimed”), and (2) referring to the Kelly reference as teaching, “the well known use of associate support layers, terminals and drive circuitry.” Furthermore, the Office Action

provides nothing in response to Applicant's previously-submitted arguments, which pointed out the same deficiencies of Yun as noted above. For these reasons, the Examiner's basis for the rejection remains unclear to Applicant.

Due to the lack of any specificity, evidence, and discussion in the Office Action, Applicant submits that no clear issue has yet been developed during the prosecution of the present application. Should any rejection based upon the Yun reference and/or Kelly reference be maintained, Applicant respectfully requests clarification regarding the basis for the rejection and specificity regarding any alleged correspondence between the references and the various aspects of claimed invention. In addition, should any rejection based upon the Yun and/or Kelly references be maintained, Applicant respectfully submits that finality would inappropriate. *See M.P.E.P. § 706.07* stating, “[b]efore final rejection is in order a clear issue should be developed between the examiner and applicant.” Because no clear issue has been developed between Applicant and the Examiner, any subsequent rejection should afford Applicant a full opportunity to respond.

Applicant further submits that the cited references do not appear to disclose the features additionally recited in the newly added claims 11-14 when considered in combination with the aspects recited in the claims from which they depend.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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